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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,882	02/23/2004	Craig French	3426-0108P	7102
2292 7590 03/17/2008 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER KEENAN, JAMES W				
ART UNIT		PAPER NUMBER		
3652				
NOTIFICATION DATE		DELIVERY MODE		
03/17/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

### Office Action Summary

**Application No.**

10/782,882

**Applicant(s)**

FRENCH, CRAIG

**Examiner**

James Keenan

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**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-19 and 21-23 is/are rejected.
- 7) ☒ Claim(s) Z is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the plurality of sizes of pockets (claim 10) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 1, 21, and 22 are objected to because of the following informalities: in claim 1, line 3, claim 21, line 4, and claim 22, line 2, "supports" should apparently be --support--. Appropriate correction is required.

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3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4, 8, and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites "said lifting arm" but plural "lifting arms" have been previously recited. Furthermore, it is believed that applicant intended this recitation to refer to the "lever arm".

Claim 8 recites "said ... plates" but only a single "plate" is previously recited. Applicant argues that claim 7 provides antecedent basis for plural plates because it allegedly requires "each pair of ... arms to have a ... plate". Claim 7 contains no such limitation; it merely recites a single "plate joining ... said ... arms".

In claim 13, the recitation of a "desired position" is vague and subjective.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1, 3, 5, 11, 16, 18, 19, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Schwein et al (US 4,095,706, previously cited).

This rejection is set forth in the previous Office action, mailed 7/19/07.

Applicant argues that Schwein fails to show a pair of lifting arms directly connected to a lever arm, allegedly because only a single lifting arm 72 is directly connected to lever arm 64. However, the other lifting arm 72 is directly connected to corresponding arm 44. Nothing in the claims precludes arms 44, 64, and connecting arm 52 from collectively being considered a "lever arm", in which case lifting arms 72 are indeed both directly attached thereto.

Applicant further argues that the lifting arms 75 in conjunction with the support arms 32 of the main frame do not define a "spool receiving volume" in the rear of the loading system. However, the extremely broad limitation of a spool receiving volume in no way defines over the Schwein reference. There is nothing in the claims which requires the lifting arms and the support arms to necessarily define the entire spool receiving volume and/or be the sole means of defining same.

Applicant yet further argues that the support rack 42 is not "attached" to the lifting arms, ostensibly because members 42 are merely "extensions of lift arms, and appear to be made of the same box shape". This is not germane to the claimed invention. Nothing in the claims precludes the rack members from being "extensions" of the lift arms. They are clearly "attached" to the lift arms.

Furthermore, it is noted that certain elements of the claims could be attributed to other portions of the reference if interpreted differently. For example, the lever arm could be element 52, in which case the lifting arms would be elements 44 and 64 and the rack members would be elements 42, 72 collectively. Thus, even if applicant's

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arguments were persuasive with respect to the previous interpretation of the reference, they would be moot in view of the second interpretation.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwein.

Schwein shows the connecting device to include an assembly 48 which comprises a U-shaped yoke 110 fastened to a vertical support member 95 extending upwardly from the main frame (fig. 6), but it does not have a pin for interconnecting the yoke to the (presumably) lever arm.

Nevertheless, it would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Schwein with a pin for interconnecting the yoke to the lever arm, as this would be a more secure means of securing two elements of a mobile load handling device during transport thereof, the use of which in the apparatus of Schwein would neither require undue experimentation nor produce unexpected results.

9. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwein in view of Forsythe (US 6,217,053, previously cited).

This rejection is set forth in the previous Office action, mailed 7/19/07.

10. Claims 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwein in view of Rouse (US 6,648,578).

Schwein does not show the support arms to each include a pair of fulcrum arms extending diagonally upward therefrom (claim 6), or the lifting frame to include a horizontal lateral cross member interconnecting the forward ends of the lifting arms and to which the rearward end of the lever arm is attached (claim 15).

Rouse shows a trailer comprising a main frame and a pivotally attached lifting frame, wherein spaced-apart support arms of the main frame 24 each include at least a pair of upwardly diagonally extending fulcrum arms 37 attached thereto, and wherein the lifting frame 22 includes a horizontal lateral cross member (fig. 5) interconnecting forward ends of spaced-apart lifting arms 34 and to which the rearward end of lever arm 48 is attached.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Schwein with the above noted features shown by Rouse, as an alternate equivalent means of pivotally connecting a lifting frame to a main frame of a trailer.

11. Claims 9, 10, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwein in view of Love, Jr. (US 3,031,902, previously cited).

Schwein does not show the rack members to include plural U-shaped pockets for providing a securing place for spindles upon which spools are mounted.

Love, Jr. shows a trailer with such a feature, as clearly seen in the drawings.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Schwein with rack members having plural U-shaped pockets for providing a securing place for spindles upon which spools are mounted, as shown by Love, Jr., as this would enable the carrying of a greater size and variety of loads.

Re claim 10, to have constructed the pockets with a plurality of sizes to accommodate various spool diameters is considered an obvious design expediency, particularly in light of the lack of any showing of such a feature.

Re claim 12, holes 35 are considered to be "locking devices", as broadly claimed.

12. Claims 14, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwein in view of De Arment (US 2,775,357).

Schwein does not show the main frame to include a horizontal lateral cross member interconnecting forward ends of the spaced-apart support arms and to which a rearward end of the tongue is attached.

De Arment shows a similar cable dolly with a U-shaped main frame comprising horizontal lateral cross member 16 interconnecting forward ends of spaced-apart support arms 12 and to which a rearward end of tongue 26 is attached.

It would have been obvious for one of ordinary skill in the art at the time of the invention to have modified the apparatus of Schwein with the above noted feature shown by De Arment, as this would provide the main frame with an open U-shape rather than a V-shape, allowing the load to be carried lower, thereby increasing stability.

Re claim 22, note that the support arms of De Arment are parallel.

Re claim 23, also note in De Arment fulcrums 46 which pivotally support a lifting frame 42 and are attached to a middle portion of the support arms.

13. Applicant's arguments filed 10/19/07 have been fully considered but they are not persuasive. All arguments have been addressed above.

14. Applicant's arguments with respect to claims 4, 6, 9, 10, 12, 14, 15, 17, 22, and 23 have been considered but are moot in view of the new ground(s) of rejection.

15. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

16. Claims 8 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Keenan whose telephone number is 571-272-6925. If attempts to reach the examiner by telephone are unsuccessful, the examiner's

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supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Keenan/  
Primary Examiner  
Art Unit 3652

jwk  
3/5/08